

Coram: S.K.Keshote, J.

(19th January 1996)

Order

Mr. K.N.Rawal for the Petitioner. Mr. Hardik C. Rawal and Mr. S.G.Uppal for Mr. N.R.Tandel for the Respondent.

Heard learned Counsel for the parties. Learned Counsel for the petitioner does not dispute that the Labour Court has powers to set aside the punishment of dismissal awarded by the management of the Corporation after holding the necessary inquiry where it reached the conclusion that the punishment awarded is disproportionate to the guilt. It is also a settled law that, in the matter of punishment to be awarded for the proved misconduct, the Labour Court has such powers. In case the Labour Court considers that in the facts and circumstances of the present case the punishment of dismissal is harsh, it has powers to substitute the same by some other punishment by passing appropriate order in that regard. In the present case, the Labour Court has held that, though previously also the workman has committed misconducts, but all the 13 times he was given lesser punishment. It has been further held by the Labour Court that, looking to the misconduct of the workman in the present case, it does not appear to be proper to allow the workman to continue in the post of Conductor, but, at the same time, to take away his job would be a harsh punishment, and taking into consideration these facts, the Labour Court concluded that the petitioner should not be allowed his back wages. He should not be given the continuity of past services. He was allowed to be reinstated back in service without past benefits and that too on the equivalent job where there is no dealing with money. In view of the findings recorded by the Labour Court in its aforesaid order, it cannot be said that the workman has not been given any punishment. The denial of the continuity of the past service would certainly result to deprivation of the yearly increments of the said period as well as of other benefits. It will be a fresh appointment and whatever increments which he earned by remaining in service till the date of his dismissal and he would have earned in case the continuity of his past service would have been ordered stands taken off. He has also not been given back wages. In view of this fact, I do not find any

substance in the contention that no punishment whatsoever has been given by the Labour Court.

In the result, this writ petition fails and the same is dismissed. Rule is discharged. No order as to costs.

19th January 1996

(S.K.Keshote, J.)